

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
Simon HOLDSWORTH	:	Confirmation Number: 6280
	:	
Application No.: 10/016,935	:	Group Art Unit: 2143
	:	
Filed: December 14, 2001	:	Examiner: J. Avellino
	:	
For:		SELECTION OF COMMUNICATION STRATEGIES FOR MESSAGE BROKERS OR PUBLISH/SUBSCRIBE COMMUNICATIONS

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted under 37 C.F.R. §§ 41.41, 41.43(b) in response to the Supplemental Examiner's Answer dated November 2, 2006. Although the Examiner wrote "no further response by the examiner is deemed necessary," the Examiner proceeded to introduce two new paragraphs of arguments. Therefore, Appellant proceeds on the basis that the Examiner's communication dated November 2, 2006, was a Supplemental Examiner's Answer, under 37 C.F.R. § 41.43(a)(2).

On page 13 of the Amendment filed October 13, 2005, Appellant argued the following:

Independent claims 1, 11, and 14 have been amended to clarify that the means for selecting a message filter policy is separate from the publisher and subscriber application programs. However, the features in Owens that have been argued as corresponding to these claimed features (i.e., the message sender 34 and message receiver 36) are the same entities that select the "options for defining rules" (see column 3, lines 34-36) that the Examiner argues corresponds to the claimed selecting a message filtering policy. Thus, Owens fails to teach or suggest the limitations recited in amended claims 1 and 14. Furthermore, to modify Owens such

that the selection of the message filtering policy is made by someone other than the message sender 34 and message receiver 36 would impermissibly changed the principle of operation of Owens.

On page 7 of the Appeal Brief, Appellant asserted that the Examiner had not addressed this argument in the Third Office Action. In the Supplemental Examiner's Answer, the Examiner stated the following:

Appellant further brings up that the Examiner has failed to comment on Appellants arguments on page 7 of the Brief, stating that the Examiner has failed to address the arguments presented regarding the means for selecting being independent. As stated before, Appellant's argument is directed to the modification of Owens, not necessarily to the selection means being independent, and, as shown in the Non-Final Rejection dated December 14, 2006, Owens would not be changed insofar as it would change the principle of operation of the reference, it still filters messages, merely changes how the message filtering is done. The filtering is actually done. Therefore the modification would not change the scope of the reference.

As noted above, claims 1, 11, and 14 were amended to clarify that the means for selecting a message filter policy is separate from the publisher and subscriber application programs because the asserted means for selecting a message filter policy in Owens is the same as the asserted publisher and subscriber application programs. Thus, a principle of operation of Owens is that message senders and receivers choose the filter and forward options (see lines 10-13 of Abstract of Owens). The Examiner's response to this argument is that "Owens would not be changed insofar as it would change the principle of operation of the reference, it still filters messages."

In essence, the Examiner has redefined the "principle of operation of the reference" so as to avoid the proposed modification. Despite the Abstract of Owens teaching that "[m]essage senders and receivers may choose from a variety of filter and forward options that allow them to manage their communications via the universal mailbox," the Examiner has improperly narrowed the "principle of operation of the reference" to just message filtering, while ignoring

the explicit teachings of Owens that the selection of the message filter policy is part of the asserted publisher and subscriber application programs (i.e., the message senders and receivers). Therefore, for the reasons stated above, Appellant respectfully maintains the argument that to modify Owens such that the selection of the message filtering policy is made by someone other than the message sender 34 and message receiver 36 would impermissibly changed the principle of operation of Owens.

The Examiner further asserted the following in the Supplemental Examiner's Answer:

As to the point about the references not teaching the separate message selection, it must be understood that Owens does, in fact, teach that the message filtering selection is done independent of the publish and subscribe applications. As shown before, Owens' message sender 34 can be construed as the publishing application and Owens' message receiver 24 can be construed as the subscriber application program (or the computing applications they use to send/receive the messages). Everything inbetween the publisher and subscribers can be construed as "separate" because they are not part of either of the publisher and the sender (i.e. the CompuServe and Premiere Services are not "part" of the sender/receiver, they are their own independent systems and can function without the sender or receiver being logged on and conducting communications over the network). This clearly shows that the means for selecting a message filter policy (i.e. the "universal mailbox" as shown in Figures 2-3 actually do the forwarding based on the type of message), although defined by a user, is actually selected by the system. By this rationale, the rejection should be maintained.

To condense the Examiner's argument, the Examiner is asserting that everything in between the message sender 34 (i.e., the alleged publisher application program) and the message receiver 24 (i.e., the alleged subscriber application program) is separate from these two features. Moreover, as asserted by the Examiner, the universal mailbox shown in Figures 2 and 3 (i.e., the alleged "means for selecting a message filtering policy") is separate from both the message sender 34 and message receiver 24.

In reference to the message filter policy, the Examiner stated "although defined by a user, is actually selected by the system." Although Appellant recognizes that the universal mailbox of Owens may be a means for implementing a message filter policy, the universal mailbox does not

correspond to the claimed means for selecting a message filter policy. On page 3 of the Third Office Action dated December 14, 2005, the Examiner cited "fig. 3, column 8 lines 34-36, fig. 5, 6, and 8; and column 10 lines 24-56" to teach the claimed "means for selecting a message filtering policy which is appropriate for the communication characteristic."

Column 8, lines 34-36 of Owens teaches that "[i]nbound e-mail messages are first processed by a computer access service (e.g., CompuServe);" and thus, this passage does not support the Examiner's assertion. Column 10, lines 24-56 of Owens is reproduced below:

Inbound message options also allow a receiver (1) to be notified immediately of an inbound message and/or to redirect a message to an alternate device/address (i.e., perform an immediate action in response to the arrival of the message--immediate filter and forward options) or (2) to have messages stored in the original communication medium format or a second communication medium format for later retrieval (store and forward options.) Store and forward options provide the receiver with different ways, upon dialing in with a telephone or a computer, to retrieve and manage messages that have been stored.

Based the receiver's immediate filter and forward option settings, the receiver may be notified of an incoming message as messages (or portions of messages) may be immediately forwarded to alternate target devices/addresses such as a pager or electronic mailbox. For example, if an important voice mail message arrives at the intended receiver's voice mailbox, a notification may be sent. Notifications may include cross-media notifications in which a receiver may be notified using a communication medium that is different than the original communication medium used by the sender. For example, a page may be sent to an alphanumeric pager alerting the receiver that an e-mail message has arrived. Alternatively, an e-mail message may be sent in response to the arrival of a voice mail message. The filtering rules (in accordance with the filtering options **selected** by the receiver) applied to the message are based on the sender's originating telephone number or e-mail address. The forwarding options available are determined by the type of message received from the sender (e.g., voice mail, fax mail or e-mail) and the alternate target device/address (e.g., pager, e-mail account, fax machine, voice mailbox). (emphasis added)

As readily apparent from the underlined portion in the above-reproduced citation, the Examiner's cited passage supports Appellant's assertion (i.e., the asserted means for selecting a message filter policy is the same as the asserted publisher and subscriber application programs). Specifically, the filter rules are applied to a message based upon "filtering options selected by the receiver" (emphasis added). Thus, the receiver selects the filtering rules, not the universal mailbox, as asserted by the Examiner.

Therefore, for the reasons stated above, Appellant respectfully maintains the argument that the alleged means for selecting a message filter policy within Owens is the same as the alleged publisher and subscriber application programs of Owens; and thus, Owens fails to teach or suggest this particular limitation.

For the reasons set forth in the Appeal Brief of August 11, 2006, in the Reply Brief dated October 10, 2006, and for those set forth herein, Appellant respectfully solicits the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: December 4, 2006

Respectfully submitted,

/Scott D. Paul/

Scott D. Paul

Registration No. 42,984

Steven M. Greenberg

Registration No. 44,725

CUSTOMER NUMBER 46320